

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION
No. ___:___-CV-___-

DINAH LILLY,

Plaintiff,

v.

SWIFT RESPONSE, LLC,

Defendant.

NOTICE OF REMOVAL

Now comes Swift Response, LLC (“Swift”), by and through legal counsel, and respectfully removes the above-entitled action from the Superior Court of North Carolina, Cabarrus County to the United States District Court for the Middle District of North Carolina, pursuant to 28 U.S.C. §1441 and 28 U.S.C. §1446. Swift shows unto the Court as follows:

1. This action is being removed to federal court based on diversity of citizenship between the parties and an amount in controversy greater than \$75,000.00, pursuant to 28 U.S.C. §1441(b) and 28 U.S.C. §1446(c).
2. Plaintiff filed this action on March 8, 2024, in the North Carolina Court of Justice, Superior Court Division, Cabarrus County styled *Dinah Lilly v. Swift Response, LLC*, 24 CVS 863 (“Superior Court Action”).
3. Swift was served with the Summons and Complaint on March 18, 2024. Accordingly, the removal of this case is timely in accordance with 28 U.S.C. §1446(b).
4. Plaintiff’s claims in the Superior Court Action are for negligence. Plaintiff made a demand for monetary damages.

5. This case is removable pursuant to 28 U.S.C. §1441(a) as a civil action “of which the district courts of the United States have original jurisdiction.” This Court has original subject matter jurisdiction over this case under 28 U.S.C. §1332(a) because the real parties in interest in this action are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs:

- a. Plaintiff has alleged that she is a resident of Concord, Cabarrus County, North Carolina.
- b. Swift is a Florida Limited Liability Company with its principal place of business in the State of Florida.
- c. In the Superior Court Action, Plaintiff is seeking monetary damages for alleged negligence. While Swift denies that Plaintiff is entitled to the relief sought, it is apparent from the face of the Complaint that the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. Even where the complaint does not specify the specific amount sought pursuant to state practice, removal is proper if the district court finds, by preponderance of the evidence, that the amount in controversy exceeds \$75,000. *See* 28 U.S.C. § 1446(c)(2)(B).

6. This Court is the proper district court for removal because the North Carolina General Court of Justice, Superior Court Division, Cabarrus County is located within the district of the United States District Court for the Middle District of North Carolina.

7. Pursuant to 28 U.S.C. §1446(a), copies of all process served upon Swift in this action, the Summons and the Complaint and the Affidavit of Service of Process are attached as **Exhibit 1**.

8. Pursuant to U.S.C. §1446(d), on this day, a copy of this Notice of Removal has been forwarded to the Clerk of Superior Court of Cabarrus, North Carolina for filing as shown by the

Notice attached hereto as **Exhibit 2**. Also pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal and the above-referenced Notice to the State Court has been provided to Charles Ali Everage of Hunter & Everage, PLLC, counsel of record for Plaintiff, by email and First-Class Mail as shown on the attached Certificate of Service.

WHEREFORE, pursuant 28 U.S.C. §1441 and 28 U.S.C. 1446, Swift respectfully requests that the Superior Court Action be removed and that this Court assume jurisdiction of this case for all purposes and issue all necessary orders to remove the action from the North Carolina General Court of Justice, Superior Court Division, Cabarrus County, to the United States District Court for the Middle District of North Carolina.

This the 12th day of April, 2024.

s/Russell M. Racine
Russell Racine
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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that this day, I electronically filed the foregoing *Notice of Removal* with the Clerk of Court using the CM/ECF system and mailed the document via the United States Postal Service, postage pre-paid, and addressed to:

Charles Ali Everage
Hunter & Everage, PLLC
Post Office Box 25555
Charlotte, NC 28229
cae@hunter-everage.com

This the 12th day of April, 2024.

s/Russell M. Racine
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